

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

TIMOTHY A. FONSECA,
Plaintiff,

v.

UNIVERSITY MEDICAL CENTER, et al.,
Defendants.

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No. 3:20-CV-180-FM-RFC

ORDER FOR SPECIAL REPORT

On this day, the Court considered the status of the above-styled and numbered cause. On June 26, 2020, Plaintiff filed an “Application to Proceed *In Forma Pauperis*.” (ECF No. 1.) On August 10, 2020, this Court granted (ECF No. 2) Plaintiff’s Application and his Complaint was thereafter filed. (ECF No. 3.) In the Order, the Court noted that “[p]rior to ordering service of process on Defendants, the Court [would] engage in judicial screening of Plaintiff’s Complaint pursuant to 28 U.S.C. § 1915.” (ECF No. 2:3-4.)

The Court finds that it is necessary to develop the known facts in the instant case to determine whether Plaintiff’s claims have potential merit or should be dismissed as frivolous or failing to state a claim. *See Parker v. Carpenter*, 978 F.2d 190, 191 n. 2 (5th Cir. 1992) (approving certain methods utilized by district courts to determine frivolousness of claims, including ordering prison officials to investigate the facts surrounding a claim in order to construct an administrative record). The Court further finds that requesting appropriate officials to provide the Court with records related to Plaintiff’s claims will enable the Court to determine whether Plaintiff is asserting meritorious claims within the meaning of 28 U.S.C. § 1915. *See Martinez v. Aaron*, 570 F.2d 317, 319-20 (10th Cir. 1978), *cited with approval in Parker v. Carpenter*, 978 F.2d 190, 191 n. 2 (5th Cir. 1992).

Accordingly, it is **HEREBY ORDERED** that the El Paso County Sheriff's Office ("Sheriff's Office") provide the Court with "certified copies of all of [Plaintiff's] medical records, including all sick call requests, and all of his written complaints and/or administrative grievance records," in compliance with 45 C.F.R. § 164.512(e), as described in *United States v. Bek*, 493 F.3d 790, 802 (7th Cir. 2007), from Plaintiff's time in the custody of the Sheriff's Office from July 23, 2018, onwards. *See Adams v. Edwards*, No. CIV.A. 14-2649, 2015 WL 1517511, at *2 (E.D. La. Mar. 31, 2015). It is **FURTHERED ORDERED** that the Sheriff's Office prepare a report on the facts and circumstances surrounding Plaintiff's allegations pursuant to *Martinez v. Aaron*, 570 F.2d 317, 319 (10th Cir. 1987).

The above materials shall be submitted to the Court within **thirty (30) days** from the date of this Order.

It is **FINALLY ORDERED** that the District Clerk **SEND** a copy of this Order and Plaintiff's Complaint to the Sheriff's Office HQ, Attn: Sheriff Richard Wiles, 3850 Justice, El Paso, TX 79938.

SO ORDERED.

SIGNED and **ENTERED** this 20th day of August, 2020.

A handwritten signature in black ink, appearing to read 'R. F. Castaneda', written over a horizontal line.

ROBERT F. CASTANEDA
UNITED STATES MAGISTRATE JUDGE